

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

DE SANTIS et al.

Atty. Ref.: 4865-91; Confirmation No. 2737

Appl. No. 10/590,936

TC/A.U. 1653

Filed: August 28, 2006

Examiner: Unknown

For: ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY

\* \* \* \* \*

August 11, 2008

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE  
TO RECEIVE OFFICIAL ACTION (MPEP §711.03(c) and 37 CFR §1.181)**

Applicants hereby request (petition) to withdraw the holding of abandonment set forth in the Notification of Abandonment, dated July 11, 2008, (copy attached) for failure to respond timely to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures dated May 29, 2007. The reason for this request (petition) is that the applicants' undersigned representative never received through regular mail channels a copy of the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures. Thus, withdrawal of the abandonment holding is believed to be in order and such action is solicited. (See MPEP §711.03(c).I.A.)

In support of this request, the applicants' undersigned representative notes the following:

- (1) Upon receipt of the Notice of Abandonment dated July 11, 2008, it was observed that the subject application was abandoned because no reply was received in response to the Notification allegedly mailed on May 29, 2007.
- (2) Upon receipt of the Notice of Abandonment dated July 11, 2008, a review of the USPTO's PAIR system indicated that a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures was allegedly mailed on May 29, 2007. However, after a careful review of the records, it became apparent that the applicants' representatives (including the undersigned) never received the Notification.
- (3) The undersigned has searched the file jacket and docket records relating to the instant application, and both evidence that the Notification dated May 29, 2007 was not received. A copy of the relevant computer-based docket record relating to this application is attached as Exhibit A evidencing that the Notification dated May 29, 2007 was not in fact received by undersigned. The attached docket record, last updated March 27, 2008, does not indicate any Notification having been received, but instead indicates a Call-Up to be done on September 28, 2008 to see if an Office Action or filing receipt has been received. Thus, the attached docket record clearly indicates that the Notification dated May 29, 2007 was not received by applicant's representatives.
- (4) **The Nixon & Vanderhye ("N&V") Docketing System and Its Reliability**

Applicant's representative, N&V has employed for at least the previous twenty years a docketing system whereby all correspondence received from the U.S. Patent and Trademark Office ("USPTO") through the US Postal Service is reviewed initially by a Docketing Specialist who enters the due date associated with such correspondence into a computer-based docket record. Another Docketing Specialist will verify the accuracy of the data entered into the computer-based docket record and will also manually enter into a separate paper Master Docket record the final due date associated with the USPTO correspondence. Thus, N&V docket records maintain the due date for patent applications in both electronic and paper form.

Moreover, these docketing records collectively include, but are not limited to, the application serial number, the attorney docket number, the mail date of the correspondence and the due date for the response to such correspondence.

The docketing system described above has proven to be highly reliable during the undersigned's tenure at N&V which began in 1985.

In this particular instance, had the USPTO correspondence of May 29, 2007 actually been received by N&V through the US Postal Service, there would have been an entry into the computer-based docket record. In addition, had such correspondence actually been received, an entry in the paper Master Docket record for December 29, 2007 (i.e., the final non-extendible due date for the May 29, 2007 correspondence) would also have been made.

#### **5. The N&V Master Docket Record**

As noted above, the N&V Docketing Specialists enter into a paper Master Docket record the final non-extendible due date for any USPTO correspondence received through the US Postal Service. Thus, since the May 29, 2007 correspondence set a non-statutory response due date of two (2) months from its mailing date, the final non-extendible due date would have been entered into the Master Docket record for December 29, 2007.

The Master Docket record for December 29, 2007 is attached hereto as Exhibit B. As can be observed, nowhere in the Master Docket record can a due date be observed attributable to the May 29, 2007 correspondence for the subject application.

In addition, as noted previously, the computer-based docket record (Exhibit A) for the subject application would have had noted receipt of the May 29, 2007 correspondence and its extendible 2-month due date of July 29, 2007. However, as the enclosed screen print of the computer-based docket record for the subject application reveals, no such information was entered therein.

And, as previously stated, a diligent search of the undersigned's other records related to the subject application, including the file jacket and the contents of the subject application,

evidence that for reasons unknown the correspondence of May 29, 2007 was not in fact received by N&V through the US Postal Service.

In view of the facts above, it is respectfully requested that the Notification of Abandonment dated July 11, 2008 be withdrawn.

A formal response to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures, namely a sequence listing, is being filed concurrently herewith. As such, there is no need to reissue the Notification with a fresh response due date as all issues are being addressed with the concurrently filed response.

It is believed that no fee is necessary in order to withdraw the abandonment status of this application. However, if the Office deems otherwise, then please charge the fees required per the deposit account charge authorization below.

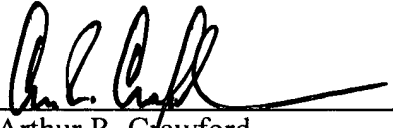
#### **Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Arthur R. Crawford  
Reg. No. 25,327

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Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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10/590,936

Rita De Santis

4865-91

ARC

23117

NIXON & VANDERHYE, PC

901 NORTH GLEBE ROAD, 11TH FLOOR

ARLINGTON, VA 22203

INTERNATIONAL APPLICATION NO.

PCT/IT2005/000078

I.A. FILING DATE

02/16/2005

PRIORITY DATE

02/27/2004

**CONFIRMATION NO. 2737**  
**371 ABANDONMENT/TERMINATION**  
**LETTER**



\*OC000000030920420\*

Date Mailed: 07/11/2008

**NOTIFICATION OF ABANDONMENT**

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- failed to respond notice ( 922) mailed 5/29/07

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

Petition to Revive  
DATES DOCKETED

DUE DEC. 29, 2008 (DDL)  
C/U July 25, 2008 (File Pet?)

WJG

## EXHIBIT A

IPMaster (v1.7.3) - [Patent 1 of 1]

File / Edit / Names / Utilities / Tools / Help

Docket Number: 4855-0091  
Country: United States  
Case Type: Utility Appln.  
Relation Type: Original Filing  
Filing Type: PCT

Attorney: Arthur R. Crawford  
Attorney #2:  
Attorney #3:  
Client Name: LEONE & SPADARO  
Assignee/Applicant: TECHNOGEN S.C.P.A.  
Client Reference No: 06306MS

**ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY**

Inventors	PCT Publication No.	External Files	Related Cases	Title
Filing Data	CustomerNo/Assoc./Nintendo	Priority Info/Corresp Case	Actions/Due Dates	Misc Note
Action	Action Due	Roll Date	Mail	Action Notes
IDS Not Applicable				
No Foreign Filing				
Missing parts filed				
Filing Receipt (OFR)				
Application Date (F)	8/27/2006		8/28/2006	
IDS Filed?	12/28/2006		12/28/2006	ddkt per arc pink
Filing Receipt Recv'd?	9/28/2008			
Office Action Rcvd?	2/28/2009			

Created: 8/3/2006 Updated: 3/27/2008 1:21:14 PM By: LMS

start

Novell Group Microsoft Word DOCS Open Elite for Wind IPMaster (v1.7.3) United States

2:00 PM  
Tuesday  
7/15/2008

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~~HWB 4209-141 60/882,613 Prov Comp US/FF Drop~~  
~~HWB 4209-137 60/882,617 Prov Comp US/FF Drop~~  
~~HWB 4209-147 60/882,624 Prov Comp US/FF 12-31-07~~  
~~HWB 4209-138 60/882,611 Prov. Comp US/FF 12-28-07~~  
~~HWB 4209-140 60/882,613 Prov. Comp US/FF 12-31-07~~  
~~HWB 4209-143 60/882,617 Prov Comp US/FF 12-28-07~~  
~~HWB 4209-145 60/882,901 Prov. Comp US/FF Drop~~  
~~HWB 4209-140 60/882,880 Prov. Comp US/FF Drop~~  
~~HWB 4209-152 60/882,846 Prov. Comp US/FF Drop~~  
~~HWB 4209-155 60/882,830 Prov. Comp US/FF 12-29-07~~  
~~HWB 4209-134 60/882,831 Prov. Comp US/FF ABD~~  
~~HWB 0380-486 09/931,280 Appeal Brief (5X) Panel decision - pros. respond~~  
~~AMK 160-401 10/474,710 Appeal Brief (5X) NOA Rec'd.~~  
~~BJS 3605-74 10/477,375 Appeal Brief (5X) 8/24/07~~  
~~BID 481 620 10/558,392 Appeal Brief (5X) Amk/RCE 8.24~~  
~~SCS 124-1114 10/533,433 Appeal Brief (5X) Panel decision - pros. respond 7.6.07~~  
~~BJS 172-120 10/585,419 Msg. Rqmts (5X) 7/11/07~~  
~~MJW 1577-218 11/049,291 Appeal Brief (5X) Rce 10-29-07~~  
~~DNB 4807-8 11/518,118 Mag para (5X) 6/28/07~~  
~~LSN 461-192 11/101,458 Gmo. Resp. 10-29-07~~  
~~LCM 4137-44 10/525,231 Gmo. Resp. (5X) 8/24/07~~  
~~HWB 829-629 10/511,427 Gmo. Resp. 9-20-07~~  
~~JR/PTB 4448-25 10/526,157 Gmo. Resp (5X) ABD~~  
~~LSN 1561-102 11/399,404 Gmo. Resp. 9-21-2007~~  
~~LSN 2625-199 10/704,583 Gmo. Resp. 12-28-07~~  
~~SCS 124-1118 10/534,495 Gmo. Resp (5X) 7/26/07~~  
~~JAR 3693-49 10/740,799 Gmo. Resp 9-11-07~~  
~~GRT 117-470 10/468,013 Gmo. Resp 12-31-07~~  
~~LSN 2018-1243 11/329,106 Gmo. Resp 9-27-07~~  
~~JAR 4578-2 10/929,725 Gmo. Resp. 12-26~~  
~~JAR 4034-04 10/522,601 Gmo. Resp. 9-18-07~~  
~~MNL 3691-766 10/998,720 Gmo. Resp 8-8-07~~  
~~JRL 550-627 11/046,555 Gmo. Resp 8-7-07~~  
~~LSN 1561-97 11/356,189 Gmo. Resp. 10-29-07~~  
~~HWB 4282-5 10/811,000 Gmo. Resp 9-18-07~~  
~~BID 4670-21 11/357,420 Gmo. Resp Drop~~  
~~LSN 1561-104 11/399,406 Gmo. Resp 9-27-07~~  
~~HWB 1035-482 10/717,917 Gmo. Final Resp 9-18-07 (e)~~  
~~HWB 1035-482 10/717,917 Gmo. Final Appeal 9-28-07~~  
~~HEN 783-143 10/075,940 Gmo. Resp. 10-1-07~~  
~~DNB 5013-5 TM FF DUE 12-31-07~~  
~~DNB 5013-6 TM FF DUE 12-31-07~~  
~~SCS 124-1186 10/674,334 Gmo. TM Resp 12-13-2007~~  
~~SCS 124-1185 10/674,335 Gmo. TM Resp 12-13-2007~~  
~~BID 4804-013 File Natl Phase Appln DUE 12-28-07~~  
~~AMK 249-488 National Phase Appln Due 12-27-07~~  
~~JRL 124-945 Reg for Rehearing / Appeal to Court 12-26-07~~  
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EC	36-1773	10/482,730	6mo. RESP.	10-25-07
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BHD	4804-15		New NTL Proc Appln	12-28-07
RWA	790-1930	73/662,419	Renewal Due	12/18/07
HNB	4207-181		New Ntlity Appln	12-28-07



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

DE SANTIS et al.

Appln. No. 10/590,936

Filed: August 28, 2006

FOR: ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY

Confirmation No. 2737

Atty. Ref: 4865-91

Group Art Unit: 1656

Examiner: Not Known

\* \* \*

**RESPONSE TO NOTIFICATION TO COMPLY**

August 11, 2008

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notification to Comply mailed May 29, 2007 (a copy of which is attached), entry and consideration of the attached Sequence Listing are requested.

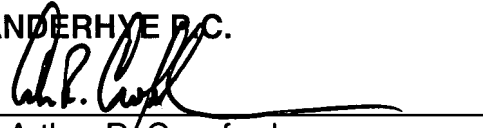
Substitute paper and computer readable forms of a substitute Sequence Listing are submitted herewith. Kindly enter the attached in lieu of the original. The attached substitute paper and computer readable forms of the Sequence Listing do not add new matter, and their contents are the same. Prompt notice of any defects in the Sequence Listing is earnestly solicited and additional time is requested to comply.

Having responded to the Notification, Applicants submit the requirements for a patent application are satisfied and earnestly solicit an early examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Arthur R. Crawford  
Reg. No. 25,327

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

From Private Pair  
Copy of what we  
never rec'd.



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/590,936	FIRST NAMED APPLICANT Rita De Santis	ATTY. DOCKET NO. 4865-91
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INTERNATIONAL APPLICATION NO.
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PCT/IT05/00078

I.A. FILING DATE 02/16/2005	PRIORITY DATE
--------------------------------	---------------

23117  
NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

CONFIRMATION NO. 2737

371 FORMALITIES LETTER



\*OC000000024084105\*

Date Mailed: 05/29/2007

### NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application.** Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

**PART 2 - OFFICE COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/590,936	PCT/IT05/00078	4865-91

# SEQUENCE LISTING

<110> TECNOGEN S.c.p.A.  
 Rita DE SANTIS  
 Angela PELLICCIA  
 Giovanna PALOMBO  
 Paolo CARMINATI

<120> ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY

<130> 4865-91 / 06306MS

<140> US 10/590,936

<141> 2006-08-28

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gtc	cac	tct	gag	gtc	cag	ctg	caa	cag	tct	gga	cct	gag	ctg	gtg	aag	96
Val	His	Ser	Glu	Val	Gln	Leu	Gln	Gln	Ser	Gly	Pro	Glu	Leu	Val	Lys	
			20					25					30			

cct	gga	gct	tca	atg	aag	att	tcc	tgc	aag	gct	tct	ggt	tac	tca	ttc	144
Pro	Gly	Ala	Ser	Met	Lys	Ile	Ser	Cys	Lys	Ala	Ser	Gly	Tyr	Ser	Phe	
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Thr	Gly	Tyr	Thr	Met	Asn	Trp	Val	Lys	Gln	Ser	His	Gly	Lys	Asn	Leu	
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	65				70					75					80	

cag	aag	ttc	aag	ggc	aag	gcc	aca	tta	act	gta	gac	aag	tca	tcc	aac	288
Gln	Lys	Phe	Lys	Gly	Lys	Ala	Thr	Leu	Thr	Val	Asp	Lys	Ser	Ser	Asn	
				85					90					95		

aca	gcc	tac	atg	gag	ctc	ctc	agt	ctg	aca	tct	gag	gac	tct	gca	gtc	336
Thr	Ala	Tyr	Met	Glu	Leu	Leu	Ser	Leu	Thr	Ser	Glu	Asp	Ser	Ala	Val	
			100					105					110			

tat tac tgt aca aga ccc ggg ggt tac tac tgg ttc ttc gat gtc tgg 384  
Tyr Tyr Cys Thr Arg Pro Gly Gly Tyr Tyr Trp Phe Phe Asp Val Trp  
115 120 125

ggc gca ggg acc acg gtc acc gtc tcc tca 414  
Gly Ala Gly Thr Thr Val Thr Val Ser Ser  
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Val Ile Met Ser Arg Gly Gln Ile Val Leu Ser Gln Ser Pro Ala Ile  
20 25 30

Leu Ser Ala Ser Pro Gly Glu Lys Val Thr Met Thr Cys Arg Ala Asn  
35 40 45

Ser Ser Val Arg Phe Met His Trp Tyr Gln Gln Lys Pro Gly Ser Ser  
50 55 60

Pro Lys Pro Trp Ile Tyr Ala Thr Ser Asn Leu Ala Ser Gly Val Pro  
65 70 75 80

Ala Arg Phe Ser Gly Ser Gly Ser Gly Thr Ser Tyr Ser Val Thr Ile  
85 90 95

Ser Arg Val Glu Ala Glu Asp Ala Ala Thr Tyr Tyr Cys Gln Gln Trp  
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Ser Ser Asn Ser Pro Arg Thr Phe Gly Gly Gly Thr Lys Val Glu Ile  
115 120 125

Arg Arg Ala  
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Val His Ser Glu Val Gln Leu Gln Gln Ser Gly Pro Glu Leu Val Lys  
20 25 30

Pro Gly Ala Ser Met Lys Ile Ser Cys Lys Ala Ser Gly Tyr Ser Phe  
35 40 45

Thr Gly Tyr Thr Met Asn Trp Val Lys Gln Ser His Gly Lys Asn Leu  
 50 55 60  
 Glu Trp Ile Gly Leu Ile Asn Pro His Asn Gly Gly Thr Thr Tyr Asn  
 65 70 75 80  
 Gln Lys Phe Lys Gly Lys Ala Thr Leu Thr Val Asp Lys Ser Ser Asn  
 85 90 95  
 Thr Ala Tyr Met Glu Leu Leu Ser Leu Thr Ser Glu Asp Ser Ala Val  
 100 105 110  
 Tyr Tyr Cys Thr Arg Pro Gly Gly Tyr Tyr Trp Phe Phe Asp Val Trp  
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 Gly Ala Gly Thr Thr Val Thr Val Ser Ser  
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 <212> DNA  
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<220>  
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<210> 6  
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